

Appendix 3

Notice of Drafting, February 26, 2016

South Carolina State Register,

Notice of Proposed Regulation, June 24, 2016

South Carolina State Register,

And

Summary of Public Comments Received During Notice of
Drafting Comment Period and Department Responses

Notice of Drafting, February 26, 2016
South Carolina State Register

30 DRAFTING NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

Notice of Drafting:

The Department of Health and Environmental Control (Department) is proposing to amend Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality Implementation Plan (State Implementation Plan or SIP). Interested persons are invited to present their views concerning these amendments in writing to Caitlan Bell, Air Regulation and SIP Management Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or via electronic mail at bellcl@dhec.sc.gov. To be considered, the Department must receive comments by 5:00 p.m. on March 28, 2016, the close of the drafting comment period.

Synopsis:

The United States Environmental Protection Agency (EPA) promulgates amendments to the Code of Federal Regulations throughout each calendar year. Recent federal amendments to 40 CFR Parts 50, 51, 52, 60, and 63 include clarification, guidance and technical amendments regarding state implementation plan (SIP) requirements, New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, and revisions to National Ambient Air Quality Standards.

The Department proposes to amend: Regulation 61-62.1, Section II, Permit Requirements; Regulation 61-62.5, Standard No.1, Emissions from Fuel Burning Operations; and Regulation 61-62.5, Standard 4, Emissions from Process Industries, to address periods of excess emissions during startup, shutdown, or malfunction (SSM) events as required by the EPA in response to a national petition for rulemaking and to address a finding of substantial inadequacy (referred to as a ‘SIP call’) (80 FR 33840, June 12, 2015).

The Department also proposes to amend: Regulation 61-62.1, Section III, Emissions Inventory and Emissions Statements; Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards; Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories; Regulation 61-62.5, Standard No. 2, Ambient Air Quality Standards; and the SIP, to incorporate by reference recent federal amendments promulgated from January 1, 2015, through December 31, 2015.

The Department may also propose other changes to Regulation 61-62 that may include corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62 as necessary.

In accordance with 1976 Code Section 1-23-120(H), legislative review is not required because the Department proposes promulgating the amendments to maintain compliance with federal law.

Notice of Proposed Regulation, June 24, 2016
South Carolina State Register

Document No. 4650

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

61-62. Air Pollution Control Regulations and Standards

Preamble:

(1) Pursuant to the South Carolina Pollution Control Act, Section 48-1-10 et seq., along with the federal Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416, the Department must ensure national primary and secondary ambient air quality standards are achieved and maintained in South Carolina. No state may adopt or enforce an emission standard or limitation less stringent than these federal standards or limitations. 42 U.S.C. Section 7416. The United States Environmental Protection Agency (EPA) promulgates amendments to the Code of Federal Regulations throughout each calendar year. Recent federal amendments to 40 CFR Parts 51, 52, 60, 61, 63 and 70 include clarification, guidance and technical revisions to SIP requirements promulgated pursuant to 42 U.S.C. 7410 & 7413, New Source Performance Standards (“NSPS”) mandated by 42 U.S.C. 7411, and federal National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Source Categories.

(2) The Department therefore proposes to amend Regulation 61-62.1, *Section III, Emissions Inventory and Emissions Statements*; Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*; Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*; Regulation 61-62.5, *Standard No. 2, Ambient Air Quality Standards*; and the SIP, to codify federal amendments to these standards promulgated from January 1, 2015, through December 31, 2015.

(3) The Department also proposes to amend: Regulation 61-62.1, *Section II, Permit Requirements*; Regulation 61-62.5, *Standard No.1, Emissions from Fuel Burning Operations*; and Regulation 61-62.5, *Standard 4, Emissions from Process Industries*, to address periods of excess emissions during startup, shutdown, or malfunction (SSM) events as required by the EPA in response to a national petition for rulemaking and to address a finding of substantial inadequacy (referred to as a ‘SIP call’) (80 FR 33840, June 12, 2015).

(4) The Department is also proposing other changes to Regulation 61-62 that include corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62 as necessary.

In accordance with 1976 Code Section 1-23-120(H), legislative review is not required because the Department proposes promulgating the amendments to maintain compliance with federal law.

A Notice of Drafting for these proposed amendments was published in the *State Register* on February 26, 2016. The Notice was also sent via the Department list serve to interested stakeholders on February 26, 2016.

Discussion of Proposed Revisions:

SECTION CITATION/EXPLANATION OF CHANGE:

Regulation 61-62.1, *Section II, Permit Requirements*

Regulation 61-62.1, *South Carolina Designated Facility Plan and New Source Performance Standards*: Paragraph L.2. is amended to delete the entire sentence, in order to address the SSM SIP Call rule.

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Regulation 61-62.1, *South Carolina Designated Facility Plan and New Source Performance Standards*:

Paragraph L.3. is amended to delete the phrase “The affirmative defense of”; and amended to delete the lowercase “a” in an; and replace with upper case “A”. Paragraph L.3. is also amended to delete the phrase “shall be demonstrated” and replace with “may be documented” to read, “An emergency may be documented through properly signed, contemporaneous operating logs and other relevant evidence that verify.”, in order to address the SSM SIP Call rule.

Regulation 61-62.1, *South Carolina Designated Facility Plan and New Source Performance Standards*:

Paragraph L.4. is amended to delete the entire sentence in order to address the SSM SIP Call rule.

Regulation 61-62.1, *South Carolina Designated Facility Plan and New Source Performance Standards*:

Paragraphs L.3 through L.5 are renumbered in alpha-numeric order to account for the deleted paragraphs L.2 and L.4 and to ensure clarity and consistency.

Regulation 61-62.1, Section III, Emissions Inventory and Emissions Statements

Regulation 61-62.1, Section III, *Emissions Inventory and Emissions Statements*:

Paragraph B.1.a. is amended to delete the word "potential" to ensure clarity within this section of the regulation. Table 1 is revised to lower the point source threshold for lead (Pb) emissions to 0.5 tons per year (tpy) of actual emissions. The purpose of this change is to match requirements of the Pb Ambient Air Monitoring Requirements rule (75 FR 81126; December 27, 2010), which required monitoring agencies to install and operate source-oriented ambient monitors near Pb sources emitting 0.5 tpy or more by December 27, 2011 (80 FR 8787; February 19, 2015). An additional column and a footnote are added to the table to clarify that the Pb threshold is based on actual emissions rather than potential emissions. Table 2 is amended to delete the phrase "(tpy potential to emit¹)" and replace with “(tons per year)” for clarity and consistency within this portion of the regulation.

Regulation 61-62.1, Section III, *Emissions Inventory and Emissions Statements*:

Paragraph B.1.b. is amended to delete the word "potential" to ensure clarity within this section of the regulation.

Regulation 61-62.1, Section III, *Emissions Inventory and Emissions Statements*:

Paragraph B.1.c. is amended to delete the word "potential" to ensure clarity within this section of the regulation. Table 2 is revised to lower the point source threshold for lead (Pb) emissions to 0.5 tons per year (tpy) of actual emissions by deleting "5" in the table and replacing with "0.5". The purpose of this change is to match requirements of the Pb Ambient Air Monitoring Requirements rule (75 FR 81126; December 27, 2010), which required monitoring agencies to install and operate source-oriented ambient monitors near Pb sources emitting 0.5 tpy or more by December 27, 2011 (80 FR 8787; February 19, 2015). An additional column and a footnote are added to the table to clarify that the Pb threshold is based on actual emissions rather than potential emissions. The footnotes are reordered for clarity and consistency. Table 2 is amended to delete the phrase "(tpy potential to emit¹)" and replace with “(tons per year)” for clarity and consistency within this portion of the regulation.

Regulation 61-62.1, Section III, *Emissions Inventory and Emissions Statements*:

Paragraph B.2.e.x. is amended to delete the comma after the phrase "(December 17, 2008)" for correct punctuation and consistency within the regulation.

Regulation 61-62.5, Standard 1, Emissions from Fuel Burning Operations

Regulation 61-62.5, *Standard 1, Emissions from Fuel Burning Operations*:

Section I, Paragraph C. is amended to delete the entire first sentence in order to address the SSM SIP Call rule.

Regulation 61-62.5, *Standard 1, Emissions from Fuel Burning Operations*:

Section IV, Paragraph A.1. is amended to add a hyphen between the words “Fuel” and “Fired” for consistency within the regulation.

Regulation 61-62.5, *Standard 1, Emissions from Fuel Burning Operations*:

Section IV, Paragraph D.1. is amended to add a hyphen between the words “fuel” and “fired” for consistency within the regulation.

Regulation 61-62.5, *Standard 2, Ambient Air Quality Standards*

Table is revised for consistency with federal National Ambient Air Quality Standard by removing the information for the 1997 Ozone Standard and adding the information for the 2015 Ozone standard.

Regulation 61-62.5, *Standard 3, Waste Combustion and Reduction*

Regulation 61-62.5, *Standard 3, Waste Combustion and Reduction*:

Section IV, Paragraph A.2.g.(i) is amended to replace “analysis” with “analyses” for consistency within the regulation; and add a period to the end of the last sentence for correct punctuation.

Regulation 61-62.5, *Standard 3, Waste Combustion and Reduction*:

Section V, Paragraph J. is amended to replace the words “on site” with the word “on-site” for consistency within the regulation.

Regulation 61-62.5, *Standard 3, Waste Combustion and Reduction*:

Section VI, Paragraph D.3. is amended to add an apostrophe to the word “sources” for correct punctuation and consistency with the rest of the regulation

Regulation 61-62.5, *Standard 3, Waste Combustion and Reduction*:

Section IX, Paragraph A. is amended to replace the words “on site” with the word “on-site” for consistency within the regulation.

Regulation 61-62.5, *Standard 3, Waste Combustion and Reduction*:

Section IX, Paragraph C. is amended to replace the word “operating” with the word “operator” for consistency within this section of the regulation.

Regulation 61-62.5, *Standard 3.1, Hospital/Medical/Infectious Waste Incinerators (HMIWI)*

Regulation 61-62.5, *Standard 3.1, Hospital/Medical/Infectious Waste Incinerators (HMIWI)*:

Section VIII, Paragraph (c)(7), is amended to delete the semicolon and add a period for correct punctuation and consistency with the rest of the regulation.

Regulation 61-62.5, *Standard 3.1, Hospital/Medical/Infectious Waste Incinerators (HMIWI)*:

Section VIII, Paragraph (c)(8), is amended to delete the semicolon and add a period for correct punctuation and consistency with the rest of the regulation.

Regulation 61-62.5, *Standard 3.1, Hospital/Medical/Infectious Waste Incinerators (HMIWI)*:

Section VIII, Paragraph (c)(9), is amended to delete the semicolon and the word “and” and add a period for correct punctuation and consistency with the rest of the regulation.

Regulation 61-62.5, *Standard 3.1, Hospital/Medical/Infectious Waste Incinerators (HMIWI)*:

Section VIII, Paragraph (e), is amended to delete the word “semiannually” and replace with the word “semi-annually” for correct punctuation and consistency with the rest of the regulation.

Regulation 61-62.5, *Standard 3.1, Hospital/Medical/Infectious Waste Incinerators (HMIWI)*:

Section VIII, Paragraph (h)(2), is amended to delete the word “semiannually” and replace with the word “semi-annually” for correct punctuation and consistency with the rest of the regulation.

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Regulation 61-62.5, *Standard 3.1, Hospital/Medical/Infectious Waste Incinerators (HMIWI)*:

Section VIII, Paragraph (k), is amended to delete the word “District” and replace with the word “Regional” for consistency within this section of the regulation.

Regulation 61-62.5, *Standard 3.1, Hospital/Medical/Infectious Waste Incinerators (HMIWI)*:

Section IX, Paragraph (h)(9), is amended to delete the words “Record keeping” and replace with the word “recordkeeping” for consistency with the rest of the regulation.

Regulation 61-62.5, *Standard 4, Emissions from Process Industries*

Regulation 61-62.5, *Standard 4, Emissions from Process Industries*:

Section XI, paragraph D.4 is amended to delete the entire section in order to address the SSM SIP Call rule.

Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*

Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*:

Subpart A, Table, is amended to incorporate federal revisions at 80 FR 13671, March 16, 2015 by reference.

Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*:

Subpart F, Table, is amended to incorporate federal revisions at 80 FR 44771, July 27, 2015 by reference.

Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*:

Subpart J, Table, is amended to incorporate federal revisions at 80 FR 75178, December 1, 2015 by reference.

Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*:

Subpart Ja, Table, is amended to incorporate federal revisions at 80 FR 75178, December 1, 2015, by reference.

Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*:

Subpart T, Table, is amended to incorporate federal revisions at 80 FR 50385, August 19, 2015 by reference.

Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*:

Subpart U, Table, is amended to incorporate federal revisions at 80 FR 50385, August 19, 2015 by reference.

Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*:

Subpart V, Table, is amended to incorporate federal revisions at 80 FR 50385, August 19, 2015 by reference.

Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*:

Subpart W, Table, is amended to incorporate federal revisions at 80 FR 50385, August 19, 2015 by reference.

Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*:

Subpart X, Table, is amended to incorporate federal revisions at 80 FR 50385, August 19, 2015 by reference.

Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*:

Subpart AAA, Table, is amended to incorporate federal revisions at 80 FR 13671, March 16, 2015 by reference.

Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*:

Subpart OOOO, Table, is amended to incorporate federal revisions at 80 FR 48262, August 12, 2015 by reference.

Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*:

Subpart PPPP is added in alpha-numeric order for consistency with federal regulations.

Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*: Subpart QQQQ, Table, is added to incorporate a newly promulgated federal rule at 80 FR 13671, March 16, 2015 by reference.

Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*: Subpart TTTT, Table, is added to incorporate a newly promulgated federal rule at 80 FR 64509, October 23, 2015 by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart A is amended to delete the word “Title” for consistency. Subpart A, Table, is amended to incorporate by reference federal revisions at 80 FR 37365, June 30, 2015; 80 FR 50385, August 19, 2015, 80 FR 56699, September 18, 2015; 80 FR 62389, October 15, 2015; 80 FR 65469, October 26, 2015; 80 FR 75178, December 1, 2015; and 80 FR 75817, December 4, 2015.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart N, Table, is amended to incorporate federal revisions at 80 FR 22116, April 21, 2015 by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart Y, Table, is amended to incorporate federal revisions at 80 FR 75178, December 1, 2015 by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart AA, Table, is amended to incorporate federal revisions at 80 FR 50385, August 19, 2015 by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart BB, Table, is amended to incorporate federal revisions at 80 FR 50385, August 19, 2015 by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart CC, Table, is amended to incorporate federal revisions at 80 FR 75178, December 1, 2015 by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart DD, Table, is amended to incorporate federal revisions at 80 FR 14247, March 18, 2015 by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart GG, Table, is amended to incorporate federal revisions at 80 FR 76151, December 7, 2015 by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart LL, Table, is amended to incorporate federal revisions at 80 FR 62389, October 15, 2015 by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart NN is amended to add a table to incorporate federal revisions at 80 FR 45279, July 29, 2015 by reference.

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Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart DDD, Table, is amended to incorporate federal revisions at 80 FR 45279, July 29, 2015 by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart NNN, Table, is amended to incorporate federal revisions at 80 FR 45279, July 29, 2015 by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart RRR, Table, is amended to incorporate federal revisions at 80 FR 56699, September 18, 2015 by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart UUU, Table, is amended to incorporate federal revisions at 80 FR 75178, December 1, 2015 by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart XXX, Table, is amended to incorporate federal revisions at 80 FR 37365, June 30, 2015 by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart LLL, Table, is amended to incorporate federal revisions at 80 FR 44771, July 27, 2015; and 80 FR 54728, September 11, 2015, by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart DDDDD, is amended to add Table and to incorporate federal revisions at 69 FR 55218, September 13, 2004 to 80 FR 72789, November 20, 2015 by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart JJJJ, is amended to add Table and to incorporate federal revisions at 68 FR 26690, May 16, 2003 to 80 FR 65469, October 26, 2015 by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart KKKKK, is amended to add Table and to incorporate federal revisions at 68 FR 26690, May 16, 2003 to 80 FR 65469, October 26, 2015; and 80 FR 75817, December 4, 2015, by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart UUUUU, Table, is amended to incorporate federal revisions at 80 FR 15510, March 24, 2015 by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart YYYYY, Table, is amended to incorporate federal revisions at 80 FR 36247, June 24, 2015 by reference.

Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*: Subpart DDDDDD, Table, is amended to incorporate federal revisions at 80 FR 5938, February 4, 2015 by reference.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons are provided an opportunity to submit written comments on the proposed regulations to Caitlan Bell by mail at Bureau of Air Quality, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201; by facsimile at (803) 898-4487; or by e-mail at bellcl@dhec.sc.gov. To

be considered, comments must be received no later than 5:00 p.m. on July 27, 2016, the close of the comment period. Comments received during the write-in public comment period by the deadline requested above shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

Interested members of the public and regulated community are also invited to comment on the proposed amendments to Regulation 61-62, Air Pollution Control Regulations and Standards, at a public hearing to be conducted by the Board of the South Carolina Department of Health and Environmental Control at its regularly-scheduled meeting on September 8, 2016. The public hearing is to be held in room 3420 (Board Room), Third floor, Aycock Building of the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department twenty-four hours in advance of the meeting at the following address: <http://www.scdhec.gov/Agency/BoardofDirectors/>. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy, are asked to provide written copies of their presentation to the Clerk of the Board for inclusion for the record.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Caitlan Bell at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201; by calling (803) 898-0561; or by emailing bellcl@dhec.sc.gov. A copy may also be obtained on the Department's Regulatory Information Internet Site at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/> in its DHEC Monthly Regulations Development Update. To access this document, click on the Air category, then scan down for this proposed amendment.

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION:

Amendment of Regulation 61-62, *Air Pollution Control Regulations and Standards* and the South Carolina Air Quality Implementation Plan ("SIP").

Purpose:

(1) The United States Environmental Protection Agency ("EPA") promulgated amendments to national air quality standards in 2015. The recent federal amendments include clarification, guidance and technical revisions to SIP requirements promulgated pursuant to 42 U.S.C. Sections 7410 & 7413, New Source Performance Standards ("NSPS") mandated by 42 U.S.C. Section 7411, and federal National Emission Standards for Hazardous Air Pollutants ("NESHAP") for Source Categories mandated by 42 U.S.C. Section 7412.

(2) The Department therefore proposes to amend Regulation 61-62.1, Section III, *Emissions Inventory and Emissions Statements*; Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*; Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*; Regulation 61-62.5, Standard No. 2, *Ambient Air Quality Standards*; and the SIP, to codify federal amendments to these standards promulgated from January 1, 2015, through December 31, 2015.

(3) The Department proposes to amend Regulation 61-62.1, Section II, *Permit Requirements*; Regulation 61-62.5, Standard No.1, *Emissions from Fuel Burning Operations*; and Regulation 61-62.5, Standard No. 4, *Emissions from Process Industries*, to address periods of excess emissions during startup, shutdown, or malfunction ("SSM") events as required by the EPA in response to a national petition for rulemaking and to address a finding of substantial inadequacy (referred to as a "SIP call") (80 FR 33840, June 12, 2015).

20 PROPOSED REGULATIONS

(4) The Department is also proposing other changes to Regulation 61-62 that include corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62 as necessary.

Legal Authority:

Pursuant to the South Carolina Pollution Control Act, 1976 Code Section 48-1-10 et seq., along with the federal Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416, the Department must ensure national primary and secondary ambient air quality standards are achieved and maintained in South Carolina. No state may adopt or enforce an emission standard or limitation less stringent than these federal standards or limitations pursuant to 42 U.S.C. Section 7416.

Plan for Implementation:

The proposed amendments will take effect upon approval by the Board of Health and Environmental Control and publication in the *State Register*. These requirements are in place at the federal level and are currently being implemented. The proposed amendments will be implemented in South Carolina by providing the regulated community with copies of the regulation, publishing associated information on our website at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/>, sending an email to stakeholders, and communicating with affected facilities during the permitting process.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The EPA promulgates amendments to 40 CFR Parts 51, 52, 60, 61, 63, and 70 throughout each calendar year. Federal amendments in 2015 included new and revised NSPS rules, NESHAPs, and NESHAPs for Source Categories. States are mandated by law to adopt these federal amendments. These amendments are reasonable as they promote consistency and ensure compliance with both state and federal regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is not anticipated increase in costs to the State or its political subdivisions resulting from these proposed revisions. The standards to be adopted are already in effect and applicable to the regulated community as a matter of federal law, thus the regulated community has already incurred the cost of these regulations. The proposed amendments incorporate the revisions to the EPA regulations, which the Department implements pursuant to the authority granted by Section 48-1-50 of the Pollution Control Act. The proposed amendments will benefit the regulated community by clarifying the regulations and increasing their ease of use.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the State or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Adoption of the recent changes in federal regulations through the proposed amendments to Regulation 61-62, *Air Pollution Control Regulations and Standards*, will provide continued protection of the environment and public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED:

The State's authority to implement federal requirements, which are beneficial to the public health and environment, would be compromised if these amendments were not adopted in South Carolina.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 4651

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61**

Statutory Authority: 1976 Code Sections 44-56-10 et seq.

61-79. Hazardous Waste Management Regulations

Preamble:

The Department of Health and Environmental Control (Department) is proposing to amend R.61-79, Hazardous Waste Management Regulations, to adopt two final rules published in the Federal Register by the United States Environmental Protection Agency (EPA). The proposed amendments will support the Department's goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner. These amendments will: revise the definition of solid waste to conditionally exclude carbon dioxide (CO₂) streams that are hazardous from the definition of hazardous waste, provided these hazardous CO₂ streams are captured from emission sources, are injected into Underground Injection Control (UIC) Class VI wells for purposes of geologic sequestration (GS), and meet certain other conditions; and revise several recycling-related provisions associated with the definition of solid waste used to determine hazardous waste regulation under Subtitle C of the Resource Conservation and Recovery Act. See the Section-by-Section Discussion of Proposed Amendments below and the Statements of Need and Reasonableness and Rationale herein.

A Notice of Drafting for these proposed amendments was published in the *State Register* on November 27, 2015.

Section-by-Section Discussion of Proposed Amendments:

1. The Department is proposing to amend R.61-79 to adopt the "Conditional Exclusion for Carbon Dioxide (CO₂) Streams in Geologic Sequestration Activities," published on January 3, 2014 at 79 FR 350-364:

260.10 Definitions. Add, in alphabetical order, the following new definition: "Carbon dioxide stream."

261.4(h). Add new subsection (h) by adding language that describes how carbon dioxide (CO₂) streams that are to be injected into Underground Injection Control (UIC) Class VI wells for purposes of geologic sequestration are excluded from the definition of hazardous waste provided that they comply with applicable Department of Transportation requirements for transportation of the CO₂ streams, applicable UIC Class VI wells requirements, no other hazardous wastes are mixed with or otherwise co-injected with the CO₂ stream, and generators and UIC Class VI well owners or operators claiming the exclusions must sign a certification statement that the conditions of the exclusion were met. This subsection also adds language that describes the length of time the certification must be kept on site and to whom and how it must be made available.

2. The Department is proposing to amend R.61-79 to adopt "Revisions to the Definition of Solid Waste," published on January 13, 2015 at 80 FR 1694-1814.

Checklist D2 – Definition of Solid Waste exclusions and non-waste determinations.

260.10 Definitions. Add, in alphabetical order, the following new definitions: "Hazardous secondary material generator;" "Intermediate facility;" "Land-based unit."

Summary of Public Comments Received During Notice of Drafting Comment Period and Department Responses

ATTACHMENT E
Summary of Public Comments Received During Notice of Drafting Comment Period and Department Responses

Name	Section Citation	Comment	Response
South Carolina Chamber of Commerce's Environmental/Technical Committee	Regulation 61-62.5, Standard 1, Emissions from Fuel Burning Operations	<p>Adding the following statement to the beginning of Standard 1 would align the standard with the startup, shutdown and malfunction (SSM) requirements of the Industrial Boiler MACT/GACT.</p> <p><u>This standard will not supersede any requirements imposed by Federal New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), Federal or State Prevention of Significant Deterioration (PSD) Regulations, nor special permit conditions, unless this standard would impose a more restrictive emission limit.</u></p>	<p>Similar existing wording in Regulation 61-62 is under review by the Department. This request will be addressed as part of that review and any change would be part of a future regulation revision action best done through an action with General Assembly review. This present action includes federal mandates such as NSPS, NESHAP, and the SSM SIP Call requiring Board approval. The SSM SIP Call must be submitted to the EPA by November 22, 2016.</p>
South Carolina Chamber of Commerce's Environmental/Technical Committee	Regulation 61-62.5, Standard 1, Section I (D)–Emissions from Fuel Burning Operations – Special Provisions	<p>The opacity standards set forth above do not apply during startup or shutdown. Owners and operators shall, to the extent practicable, maintain and operate any source including associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions. In addition, the owner or operator of fuel burning sources except natural gas fired units, shall maintain a log of the time, magnitude, duration, and any other</p>	<p>Similar existing wording in Regulation 61-62 is under review by the Department. This request will be addressed as part of that review and any change would be part of a future regulation revision action best done through an action with General Assembly review. This present action includes federal mandates such as NSPS, NESHAP, and the SSM SIP Call requiring Board</p>

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		<p>pertinent information to determine periods of startup and shutdown and make available to the Department upon request. <u>The Department will consider the information required above, in addition to any other relevant information, when determining an appropriate response for excess emissions during periods of startup and shutdown.</u></p> <p>If Comment 1 is consider too broad, adding the following statement would align this section of the Standard 1 with the startup, shutdown and malfunction (SSM) requirements of the Industrial Boiler MACT/GACT.</p> <p><u>This section will not supersede any requirements imposed by Federal New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), Federal or State Prevention of Significant Deterioration (PSD) Regulations, nor special permit conditions, unless this standard would impose a more restrictive emission limit.</u></p>	<p>approval. The SSM SIP Call must be submitted to the EPA by November 22, 2016.</p>
SCANA Corporation	Regulation 61-62.5, Standard 1, Section I (D)–Emissions from Fuel Burning Operations – Special	The Department's policy for startup and shutdown procedures should consider the physical constraints on control equipment during those periods. For many control systems, the	The Department has reviewed the SCANA comment and concurs. The Department is not including the above-referenced sentence in the

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	Provisions and Section II, Permit Requirements, L. Emergency Provisions.	<p>operation of control equipment during startup/shutdown periods negatively impacts the functionality of the unit. For instance, operating baghouses and precipitators during startup and shutdown periods can severely damage the equipment if fuel oil is burned. Selective Catalytic Reduction (SCR) systems must reach a specified temperature before they can effectively reduce nitrogen oxide (NOx) emissions. The Department should consider these limitations when developing procedures to address startup and shutdown periods. SCANA endeavors to operate and maintain its control systems according to the manufacturer's specifications and recommendations which also address safety concerns. When considering a response for excess emissions during periods of excess emissions, the Department should determine if the control equipment has been operated according to the technological limitations specified by the manufacturer and in a manner consistent with minimizing emissions.</p> <p>The Department has proposed the following revision to Standard No. 1:</p> <p>The opacity standards set forth above do not apply during startup or shutdown. Owners and</p>	proposed changes to its regulations.

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		<p>operators shall, to the extent practicable, maintain and operate any source including associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions. In addition, the owner or operator of fuel burning sources except natural gas and propane fired units, shall maintain a log of the time, magnitude, duration, and any other pertinent information to determine periods of startup and shutdown and make available to the Department upon request. <u>The Department will consider the information required above, in addition to any other relevant information, when determining an appropriate response by the Department for excess emissions during periods of startup and shutdown.</u></p> <p>The Department should consider that the addition of this sentence "The Department will consider the information required above...." incorporates language that is ambiguous and unclear. SCANA recommends omitting this sentence. The Department should develop internal policy to respond to periods of excess emissions during startup and</p>	

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		<p>shutdown without including the language in a regulation that would require a regulatory revision to be made in the future. This language should also be excluded from the proposed changes to Section II, Permit Requirements, L. Emergency Provisions.</p>	